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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,490	10/31/2001	Stanley J. Kopecky	112703-206	3231

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EXAMINER

PICKETT, JOHN G

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 04/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/001,490	Applicant(s) KOPECKY, STANLEY J.	
	Examiner Gregory Pickett	Art Unit 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 October 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 October 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> . | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the separate insert of claims 9 and 17 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

2. Claims 1-8, 10-16, and 18-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ranney (US 2,380,367) in view of Hachenski (US 6,138,905) and Howes (US 5,896,686).

Regarding claim 1, Ranney discloses a gum package (Figure 1) having a body (16) with a removable end wall (16'). The removable end wall (16') has an inner surface, the entirety of which is only visible when the end is removed. Ranney meets all limitations claimed by the applicant except for giveaway information visible by viewing the inner surface.

Hachenski discloses a container with printed matter on the inner surface of its lid. Howes discloses providing giveaway information on the inside of a removable lid and visible only when the lid is removed. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the gum package of Ranney with giveaway information on the inner surface of the removable lid as taught by Hachenski and Howes in order to provide the consumer with an incentive to buy the product.

As to claim 2, the gum package of Ranney is rectangular in shape.

As to claim 3, the gum package of Ranney discloses tab and ribbon (21, as shown, Figure 1).

As to claim 4, the gum package of Ranney is constructed in part from a flexible foil.

As to claim 5, Howes discloses giveaway information adapted to inform the consumer whether or not they have won a prize.

As to claim 6, Howes discloses giveaway information concerning a contest.

As to claim 7, Hachenski discloses information printed on the inner surface.

As to claim 8, Hachenski discloses information printed on the inner surface, Hachenski does not expressly disclose stamping information on the inner surface. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the giveaway information on the inner surface of the end wall of the gum package of Ranney-Hachenski-Howes by stamping since the examiner takes Official notice of the equivalence of stamping and printing for their use in the information providing art and the selection of any of these known equivalents to provide giveaway information would be within the level of ordinary skill in the art.

As to claim 10, the gum package of Ranney houses a plurality of sticks of chewing gum.

Regarding claim 11, Ranney discloses a package (Figure 1) having a flexible body (16) with inner surfaces defining an interior for housing products and a removable end wall (16'). The removable end wall (16') has an inner surface, the entirety of which is only visible when the end is removed. The removable end wall (16') is removable by grasping and pulling member (21). Ranney meets all limitations claimed by the applicant except for giveaway information visible by viewing the inner surface.

Hachenski discloses a container with printed matter on the inner surface of its lid. Howes discloses providing giveaway information on the inside of a removable lid and visible only when the lid is removed. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the gum package of Ranney

with giveaway information on the inner surface of the removable lid as taught by Hachenski and Howes in order to provide the consumer with an incentive to buy the product.

As to claim 12, member (21) of Ranney is a tab.

As to claim 13, Ranney discloses grasping a tab and tearing a portion of the body to remove the end wall.

As to claim 14, Hachenski discloses information printed on the inner surface.

As to claim 15, the package of Ranney is constructed in part from a flexible foil.

As to claim 16, the package of Ranney is rectangular in shape.

Regarding claim 18, the gum package of Ranney-Hachenski-Howes discloses the claimed method by presentation.

As to claim 19, the package of Ranney-Hachenski-Howes provides a tab for tearing the package to remove the end wall.

As to claim 20, the package of Ranney-Hachenski-Howes discloses providing printing on the inner surface.

As to claim 21, the package of Ranney-Hachenski-Howes discloses providing printing on the inner surface. Ranney-Hachenski-Howes does not expressly disclose stamping information on the inner surface. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the giveaway information on the inner surface of the end wall of the gum package of Ranney-Hachenski-Howes by stamping since the examiner takes Official notice of the equivalence of stamping and printing for their use in the information providing art and

the selection of any of these known equivalents to provide giveaway information would be within the level of ordinary skill in the art.

As to claim 22, the package of Ranney-Hachenski-Howes is rectangular in shape.

3. Claims 9 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ranney in view of Hachenski and Howes as applied to claims 9 and 11 above, and further in view of Focke et al (US 5,375,704).

Regarding claim 9, the gum package of Ranney-Hachenski-Howes as applied to claim 1 above meets all limitations claimed by the applicant except for giveaway information provided on a removable insert.

Focke et al discloses a package (12) with giveaway information provided on a removable insert (28). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the package of Ranney-Hachenski-Howes with a removable insert as taught by Focke et al in order to limit the production requirements of the consumer to claim their prize (i.e., it would only be necessary for the consumer to provide the insert to claim the prize).

Regarding claim 17, the package of Ranney-Hachenski-Howes as applied to claim 11 above meets all limitations claimed by the applicant except for giveaway information provided on a removable insert.

Focke et al discloses a package (12) with giveaway information provided on a removable insert (28). It would have been obvious to one of ordinary skill in the art at

Art Unit: 3728


the time the invention was made to provide the package of Ranney-Hachenski-Howes with a removable insert as taught by Focke et al in order to limit the production requirements of the consumer to claim their prize (i.e., it would only be necessary for the consumer to provide the insert to claim the prize).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory Pickett whose telephone number is 703-305-8321. The examiner can normally be reached on Mon-Fri, 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 703-308-2672. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3579 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

  
Gregory Pickett  
Examiner  
April 20, 2003

  
Mickey Yu  
Supervisory Patent Examiner  
Group 3700